IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.801 OF 2006

Shri.Santosh Chandrakant Uchale & Ors. ... Appellants

V/s.

M/s. Properties & Ideal Estate Developers through its partner & Ors. ...Respondents

Mr.S.S. Patwardhan for Appellants.
None for Respondents.

CORAM : V.M. KANADE, J.

DATED : 10th JULY, 2007.

P.C:-

1. Heard learned counsel for the Appellants.

2. The Appellants are challenging the Judgment and Decree passed by the Trial Court whereby their suit was partly decreed and an appeal which was preferred by the Appellants herein was dismissed by the lower Appellate Court.

3. The Appellants had filed suit seeking order of injunction, restraining the Respondents from carrying on construction on their property on the ground that easementery right of the Appellants was

vacated. The Appellants sought easementary right for the purpose of using the way leading to the well and also sought declaration that the Appellants were having easementary right over the well to fetch water and to use the said approaching way. However, the Trial Court dismissed the suit so far as declaration of easementary right is concerned.

4. It is submitted by the learned counsel for the Appellants that both the lower Courts below had erred in not granting easementary right and declaration sought for by the Appellants. Learned counsel invited my attention to the finding recorded by the Trial Court and submitted that the Trial Court as well as the Appellate Court had erred of law in recording finding.

5. In my view, no substantial question of law is raised. I do not find any reason to interfere with the finding of the fact recorded by the lower Courts below. Second Appeal is, accordingly, dismissed.

V.M. KANADE, J.